

25

Pro Se 8 (Rev. 12/16) Complaint for Violation of Fair Labor Standards

UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

Southern Division

Jennifer Schluter

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Encore Rehabilitation Services, LLC

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case: 3:21-cv-10874

Judge: Cleland, Robert H.

MJ: Ivy, Curtis

Filed: 04-16-2021

CMP SCHLUTER VS. ENCORE REHABILITATION SERVICES, LLC (DP)

Jury Trial: (check one) ☐ Yes ☒ No

COMPLAINT FOR VIOLATION OF FAIR LABOR STANDARDS

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Jennifer Schluter
Street Address	42102 Fountain Park Drive South, #212
City and County	Novi, Oakland
State and Zip Code	MI 48375
Telephone Number	734-664-1805
E-mail Address	jhicks1999@yahoo.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name	Encore Rehabilitation Services, LLC
Job or Title (<i>if known</i>)	Organization
Street Address	33533 W. 12 Mile Road, Suite 290
City and County	Farmington Hills, Oakland
State and Zip Code	MI 48331
Telephone Number	248-865-1177
E-mail Address (<i>if known</i>)	

Defendant No. 2

Name	Drita (LNU)
Job or Title (<i>if known</i>)	Regional Manager
Street Address	33533 W. 12 Mile Road, Suite 290
City and County	Farmington Hills, Oakland
State and Zip Code	MI 48331
Telephone Number	248-865-1177
E-mail Address (<i>if known</i>)	

Defendant No. 3

Name	Morgan Decker
Job or Title (<i>if known</i>)	Manager
Street Address	33533 W 12 Mile Road, Suite 290
City and County	Farmington Hills, Oakland
State and Zip Code	MI 48331
Telephone Number	248-865-1177
E-mail Address (<i>if known</i>)	

Defendant No. 4

Name	
Job or Title (<i>if known</i>)	
Street Address	
City and County	

Pro Se 8 (Rev. 12/16) Complaint for Violation of Fair Labor Standards

State and Zip Code

Telephone Number

E-mail Address (if known)

C. Place of Employment

The address at which I am employed or was employed by the defendant(s) is

Name	Encore Rehabilitation Services, LLC
Street Address	33533 West 12 Mile Road, Suite 290
City and County	Farmington Hills, Oakland
State and Zip Code	MI 48331
Telephone Number	248 865-1177

II. Basis for Jurisdiction

This action is brought pursuant to (check all that apply):

- ☒ Fair Labor Standards Act, as codified, 29 U.S.C. §§ 201 to 209.
- ☐ Relevant state law
- ☐ Relevant city or county law

III. Statement of Claim

State as briefly as possible the facts of your case. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Nature of employer's business:

Healthcare - Disparate Treatment regarding equal pay (see Attached) # 1

B. Dates of employment:

10/08/2012 - 05/03/2019

C. Employee's job title and a description of the kind of work done:

Pro Se 8 (Rev. 12/16) Complaint for Violation of Fair Labor Standards

Physical Therapy Assistant - see job description attached #2

D. Rate, method, and frequency of wage payment:
\$25/hour, bi-weekly, direct deposit

E. Number of hours actually worked each week in which a violation is claimed:
40

F. Description of the alleged violation(s) (check all that apply):

☐ Failure to pay the minimum wage (explain)

☐ Failure to pay required overtime (explain)

☒ Other violation(s) (explain)

See attached #3

G. Date(s) of the alleged violation(s):
10/08/2012-05/03/2019

H. Additional facts:

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

P&C - \$300,000
\$500/month - health benefits (health, dental, life, std, vision
(2) years front pay
Complete expungement of personnel file
Positive references if contacted for employment

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

4/13/2021

Signature of Plaintiff

Printed Name of Plaintiff

Jennifer Schluter
Jennifer Schluter

Pro Se 8 (Rev. 12/16) Complaint for Violation of Fair Labor Standards

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

#1

Throughout my entire employment experience, I was an excellent employee, who was disparately treated in that male employees, with less experience, education and seniority were paid more than me. The most recent incident occurred on May 3, 2019 when I reported to work as usual; half-way through my shift, Regional Manager, Drita (Inu), asked me to meet with her and Morgan Decker, (Manager) and advised me that effective immediately my employment was being changed from full-time to PRN ("pro re nata" which loosely translates to "as needed.").

Based on the foregoing, I believe that I have been unlawfully discriminated against based on my gender, female in violation of the Equal Pay Act of 1963.



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#2

- ☐ Your Copy
- ☐ Encore Copy – Sign & Return

Physical Therapist Assistant Position Description

POSITION SUMMARY

Provides physical therapy services to residents by assisting in the assessment, treatment, program planning and implementation, related documentation and communication. Functions under supervision of the physical therapist.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. Other duties may be assigned.

1. Provides physical therapy services to residents under the direct supervision of a physical therapist.
2. Assists physical therapist in the evaluation process in the areas of self-care, homemaking, functional mobility and coordination. Assists in the evaluation of other areas as directed.
3. Identifies indications for and assists in evaluations at appropriate intervals under the direction of the physical therapist.
4. Assists the physical therapist in identifying a problem list, short-term goals, long-term goals and treatment plan.
5. Conducts both individual and group treatment as assigned by the physical therapist and outlined in the treatment that includes, but is not limited to, areas of muscle strength, coordination, mobility, sensory awareness, sitting and standing, transfer training, balance activities, gait training, range of motion activities and modalities.
6. Assists in the selection of physical therapy techniques/media and in the sequence of activities, adapts techniques/media as indicated by resident performance and following consultation with the physical therapist. No major modification to the treatment plan is made without prior consultation with the physical therapist.
7. Monitors resident's response to intervention and consults with physical therapist if modification is indicated.
8. Assists in establishing and modifying individual resident schedules in conjunction with the physical therapist and other team members.
9. Adheres to department and resident schedule and modifies as appropriate for treatment regimen.

10. Maintains acceptable resident care ratios as determined by the physical therapist.
11. Provides/recommends/fabricates adaptive devices or other equipment; trains resident, family and appropriate staff in the use or application of the above.
12. Participates in resident, family and staff education.
13. Confers formally and informally with other team members in coordinating the total rehabilitation program of the resident.
14. Adheres to Physical Therapy Department procedures regarding documentation of physical therapy services.
15. Provides treatment in accordance with established standards of practice, department procedures and productivity standards.
16. Records billable treatment times according to Physical Therapy Department procedures and submits weekly/monthly statistics to regional office.
17. Maintains safe and clean work area and adheres to facility/company safety standards.
18. Complies with all infection control, Universal Precautions and OSHA standards for the healthcare professional.
19. Consistently demonstrates sound judgment in the evaluation, planning, implementation and follow-up of resident therapy programs.
20. Maintains positive relationships and rapport with coworkers, residents, family members and facility personnel.
21. Reports to work on time and adheres to schedule maintaining acceptable patient ratios and work efficiency during assigned shift.
22. Assumes responsibility for ongoing continuing education and professional development.
23. Assists with and participates in quality assurance program as required.
24. Adheres to established confidentiality standards.
25. Projects a positive and professional image at all times.
26. Performs other duties as assigned.

RECOMMENDED MINIMUM POSITION QUALIFICATIONS

1. Associate Degree in Physical Therapy from an accredited program.
2. Current state licensure or license-eligible in states where applicable.
3. Regular attendance.

PHYSICAL REQUIREMENTS and WORK ENVIRONMENT

Physical requirements for this position are classified as medium under the Department of Labor classification. The employee must be capable of exerting 20-50 pounds of force occasionally (less than 1/3 of the time), and/or 10-20 pounds of force frequently (1/2 of the time), and/or up to 10 pounds of force constantly (2/3 of the time) to move objects, equipment and/or residents. While performing the duties of this job, the employee is regularly required to stand, walk, sit, stoop, kneel, bend or crouch; use hands to manipulate tools, equipment or controls; reach with hands and arms, balance, lift and perform medium to maximum transfer assists with residents. The employee is required to have visual and hearing acuity sufficient enough to assess resident safety and ability. This position is classified as a Category 1 for the purpose of exposure determination under the OSHA Regulations regarding the Standard on Occupational Exposure to Blood borne Pathogens (29CFR 1910.1030). Category 1 is defined as all procedures or job-related tasks that involve an inherent risk for mucous membrane or skin contact with blood, body fluids or tissues, or a potential for spills and/or splashes of blood or body fluids. The use of protective equipment and measures is required for every employee engaged in Category 1 tasks.

These essential functions described here are representative of those an employee encounters while performing the basic functions of a physical therapist assistant. Reasonable accommodations may be made to enable qualified individuals with disabilities to perform these essential functions.

Supervisor Signature

Date

Employee Signature

Date

ENCORE REHABILITATION SERVICES LLC.

33533 W 12 MILE RD, SUITE 290

FARMINGTON HILLS, MI, 48331-5635

COMPANY PH#:866-538-9444

Period Beginning: 04/21/2019

Period Ending: 05/04/2019

Pay Date: 05/10/2019

Taxable Marital Status: Married

Exemptions/Allowances:

Federal: 1

MI: 0

JENNIFER N SCHLUTER

42102 FOUNTAIN PARK DR E

APT 212

NOVI MI 48375-2539

Earnings	rate	hours	this period
Regular	25.0000	77.65	1,941.25
Overtime			
Pto			
Gross Pay			\$1,941.25

year to date
12,901.25
12.38
1,000.00
13,913.63

Other Benefits and Information

	this period	total to date
G.T.L.	0.08	0.64
Pto Balance		-20.00

Deductions	Statutory	
Federal Income Tax	-120.28	787.54
Social Security Tax	-111.62	793.06
Medicare Tax	-26.10	185.47
MI State Income Tax	-74.04	525.85
Other		
Dental	-6.93*	55.44
Medical	-132.89*	1,058.23
Short Term Dbl	-11.22	89.76
Vision	-1.17*	9.36
401K	-58.24*	417.43
Net Pay	\$1,398.76	
Dir Dep Check	-1,398.76	
Net Check	\$0.00	

* Excluded from federal taxable wages

Your federal taxable wages this period are
\$1,742.02

ENCORE REHABILITATION SERVICES LLC.
33533 W 12 MILE RD, SUITE 290
FARMINGTON HILLS, MI, 48331-5635
COMPANY PH#:866-538-9444

Advice number: 00000190975
Pay date: 05/10/2019

Deposited to the account of	account number	transit ABA	amount
JENNIFER N SCHLUTER	xxxxxxxx8697	xxxx xxxx	\$1,398.76

NON-NEGOTIABLE

#3

1

5/7/2019

Jennifer Schluter

Position: Physical Therapist Assistant

Employer: Encore Rehabilitation Services, 33533 W. 12 Mile Road, Suite 290,
Farmington Hills, Michigan, 48331-5635, (248) 865-1177

Timeline of Events:

I was hired into the company Encore Rehabilitation Services, 10/8/2012, by Kathy Seeber, Regional Vice President. I have a documented hire letter.

I started working on 10/2012, at the facility Autumnwoods Nursing Home and Rehab in Warren, MI through Encore Rehabilitation. I left there on my own on 10/2014, because a position at a facility closer to my home in Novi opened up then, I was transferred to Wellbridge of Brighton Rehab in Howell, Michigan from 10/2014, and then left there around 1/2015, see note below. Note: While I was working at Autumnwoods Nursing Home and Rehab in Warren, MI, I was harassed twice by a CNA who spoke to me inappropriately regarding patient care. I then reported her twice to the Director of Nursing. A nurse hit me on the shoulder in the elevator and said, "move out of my way". Another form of inappropriate behavior towards me at this facility.

I was hired through Encore Rehabilitation as a full-time Physical Therapist Assistant, but was working at Wellbridge of Brighton Rehab in Howell, Michigan as a PRN (work as needed) Physical Therapist Assistant from 10/2014 – 1/2015. The manager Jody at the time hired outside Physical Therapist Assistants right in front of my face as full-time permanent Physical Therapist Assistants (at least 2 Caucasian Physical Therapist Assistants) that were not employees of Encore Rehabilitation when I was already a 2-years, and more full-time permanent employee, of Encore Rehabilitation. When I asked the manager Jody if I could get a permanent position there, she

responded to me, "I am sorry Jennifer, but we have a waiting list of Physical Therapist Assistants that we have to interview first before a position will be open". I was the only African-American person working in that rehab department. Then Kathy Seeber asks me privately, if I wanted to be there permanent, and I said it would be okay, but Jody never hired me permanent in the facility. Then as a PRN there I lost many hours of work, and was sent to work one day at Medilodge of Milford, in Milford, Michigan. Then I reunited with their assistant manager Barbara who I worked with at Clarkston Specialty Hospital and Nursing Center years ago in Clarkston, Michigan when I was working with another company called Therapy Staff. Barbara said, "we need a full time permanent Physical Therapist Assistant at Medilodge of Milford", I said "I am a PRN at Wellbridge of Brighton, and I would love to switch to Milford." Barbara then, put a good word in for me to Kathy Seeber. Kathy said, I was a great Physical Therapist Assistant, and I was hired full time permanent to Medilodge of Milford, and will go there next. Then Jody tells me she will miss my help here. The treatment from Jody the manager at Wellbridge of Brighton towards me was racial discrimination.

I then worked at the facility Medilodge of Milford, through Encore Rehabilitation January 2015 - June 2015 as a full time permanent Physical Therapist Assistant. One day, I called out sick when I had back pain, and went to the hospital, but returned back to work a day later, and never reported that as a work injury. In June 2015, I began to lose many hours of work, and was sent to Medilodge of Novi in Novi, Michigan to get hours. This went on for weeks as Medilodge of Milford never told me they had enough work for me to return working there anymore, then Drita a Regional Manager with Encore asked me over the phone, if I wanted to transfer as a full time Physical Therapist Assistant, and after discussing it with my family, I agreed to the position, then I was transferred to Medilodge of Novi, June 2015.

In October 2015, while I was working at the facility Medilodge of Novi, I remained as a permanent Physical Therapist Assistant at this building, but while I was there, the building was then owned, and operated by Wellbridge

of Novi. The owner of Medilodge of Novi apparently sold the building to Wellbridge of Novi. While at Wellbridge of Novi, I encountered many managers from year to year or less. Around 2015 - 2016, I had a supervising Physical Therapist, Evan Paulson, who was Caucasian. He supervised me, and at least two other Physical Therapist Assistants. On several occasions, he asked me to complete progress notes on patients that the Caucasian Physical Therapist Assistants were supposed to do. One day I was fed up with this, and I told him adamantly I was tired of doing their paperwork, even though we saw the same patients. They did not complete the paperwork when it was due, and he made me do their paperwork. Almost everyday 2015 - 2017, I would come into work, and discover that other Physical Therapists, and Physical Therapist Assistants would modify my schedule by switching with me, taking my easier patients, and giving me their more difficult patients without my permission. I complained to the manager at that time, but it continued until the next manager stopped it, in 2017. This was racial discrimination.

Then around 2016 Encore terminated their Rehab Aide position at this facility. Wellbridge of Novi hired 2 managers instead of 1 manager. The Rehab Aide assisted us with transfers, lifting patients, transporting them to and from the gym assisting us with our treatments, clean the gym, clean the hydrocollator, etc. Then each of my co-workers, and I were required to clean the gym 1-2 times per month. Every therapist including myself was assigned, to clean the hydrocollator once a month. In January 2017 I was diagnosed with a right cruciate ligament sprain by an Urgent Care Doctor at Urgent Care of Novi, Michigan as I worked many days with right knee pain that still bothers me today. I reported this to my managers Kristin Fiscus, and Ashley Brauer, but Kristin, did not seem to care although Ashley told me to document it, and give a document to them, and I did on this matter. Unfortunately, I did not report this as a work injury, I wore a brace to work by my Doctor's orders for 2 weeks. In January 2019, I had to wear knee brace daily, to keep my knee from hurting worse from lifting patients on the job. Kristin one of my Encore manager's in 2017, wrote me up about patient

family member complaint, I took a patient from dinner, and started working with them when I saw them after dinner, as the patient's family member lied on me, I gave Kristin a document of what really occurred. Then on August 30, 2018 I reported a work injury to my manager at that time, Morgan Decker who was there that day. I filled out an incident report I have a copy of, and the claim was sent to Encore's Workers Comp company, The Hartford. The Hartford initially denied this claim, then I applied for a mediation and hearing with them through the State of Michigan, and it was settled over the phone in May 2019. The Hartford reimbursed me for the Doctors visit, and medication only which they did, but would not reimburse me for three days of lost wages at work which I was entitled to per the State of Michigan. I agreed to close the case, and not pursue any further with a magistrate.

In October 2017, I was out of work for back pain for 10 days but unfortunately I did not report it as a work injury to Encore.

Then around August 2018 I was explaining to one of the managers at that time Morgan Decker, why my productivity went low then the other manager Margie Patel came up to me while I was talking to Morgan, and put her hand behind her head in a fist on the side of me in a gesture like she was going to hit me, and I said "what's up with that?" and Margie laughed at me. Then while I was treating a patient in the gym I overheard one of the managers Morgan Decker say out loud "Yea they mess with you, and they'll get punched out". She did not specifically say my name, but it's very odd she made that comment behind my back while I treated a patient directly after this incident. I reported that manager Margie Patel to the Regional Vice President of Encore Kathy Seeber. Then she documented all that occurred, had Human Resources at Encore ask me what happened, and documented it. Kathy Seeber said I should feel comfortable working at Wellbridge of Novi, and if I want to transfer to another facility she would help me if I was not comfortable around that manager Margie Patel who was Asian-Indian, and me being an African-American woman I said what she did to me was racist, and I was not comfortable around her, but I wanted to continue working

there. Kathy Seeber said she would talk with both managers at the time Morgan Decker, and Margie Patel about the incident, and how it was inappropriate. Margie Patel continued to be one of the managers until September 2018 when shortly after then they announced at work, she resigned. Meanwhile after Kathy Seeber talked with Margie Patel about this incident, Margie Patel never apologized to me for the incident. Margie also interrupted me with patients, screaming my name to talk to her several times when walking patients, which was dangerous for me to stop, and talk to her as the patient could fall while I was holding them, but she rudely, and constantly demanded my attention. I told her that if she wanted to talk to me to wait until I was done with patients. She wrote me up for several occasions when she claimed a patient or patient family member complained about me. I said to her you know this is racist, she said no don't go there making me feel she was racist by denying that the patients, and patient families were racist to me as I was doing my job, but they complained about me saying I did something wrong to her as the manager. Margie Patel, Manager threatened me, by telling me, she would report me to Kathy Seeber, Regional Vice President, if any more complaints from patients or patient family members about me came to her again.

In November 2018, a nurse harassed me in front of a patient. She told the patient, "I would not work with Jennifer, if I were you". She told another one of my patients while I was with them, "I would go to activities rather than physical therapy with Jennifer, if I were you." I reported her to the Director of Nursing, and the matter was resolved. Later that same year of 2018 a nurse screamed at me, because while assisting her with one of my patient's in the bathroom I refused to wipe the patient after a bowel movement, and the patient had an infection called c-diff in their diarrhea, which was the nursing assistant's job to do not mine as I am a Physical Therapist Assistant, then she angrily wiped the patient. I told my manager Morgan about this, but her response was "That nurse is just like that she can be like that". No one resolved that situation.

In February 2019 I reported a work injury to one of my managers at that time Morgan Decker from Encore for pain in my left piriformis muscle, and the claim was sent to the workers comp company The Hartford, and I received all benefits, health care coverage, and medication reimbursement for this case but I still have pain in my left piriformis to this day. Also while on workers comp leave I was informed by Mytheia Thomas at Encore that when my paychecks ran out I had to pay Encore \$152.21 every 2 weeks when a paycheck would be scheduled to pay for my insurance premium while on a work injury. I paid Encore \$152.21 on 3/15/2019, and then again I paid Encore another \$152.21 on 3/31/2019 for my insurance premium on this work injury since I was not getting a paycheck, per Encore.

I continued to work, and lift patients at this facility with no Rehab Aide, since Encore terminated that position. I received no assistance or cooperation from the Occupational Therapists, who only worked with me when it was convenient for them. On several occasions many Occupational Therapists would interrupt my patient physical therapy sessions by telling me that I was with there last patient of the day, and they wanted to take them from me so they could treat the same patient for their occupational therapy session, so they could go home on time, and the managers allowed this behavior. On many occasions, the managers wanted me to switch patients with other Physical Therapists, and Physical Therapist Assistants if their patients were at Doctor appointments or out of the building since I worked afternoons, and evenings so they could get their minutes for physical therapy that day. This was also racial discrimination.

One of the managers Morgan Decker offered to help me lift patients, and helped me several times, but of course I did not get help daily or from the other managers as I frequently had patients on my schedule that needed two people sometimes three people to lift them, and I had to get help from nursing to lift them all the time even after all my injuries on the job.

In January 2019 a nurse there named Kedzie came up to me while I was walking a patient past the dining room, she hit me on my shoulder, and

walked past me. I said to her "are you okay?" She said, "yes" and walked away. I reported her the next day to one of my managers Abigail McKenzie from Encore, and told her I felt violated she hit me on the shoulder, and had no right to touch me, and interrupt me while walking a patient, the patient could have fallen. This manager Abigail McKenzie reported this incident to Drita the Regional Manager from Encore who talked with me one day later that week with Abigail, and said she talked to Wellbridge of Novi's managers, and told them it was inappropriate what this nurse did, and they can make her talk to me, and apologize if I want it. I said, "no that's okay as long as she knows it was inappropriate, and Encore told her through you it was inappropriate".

Then in April 2019, I was walking down hall and I could not find a patient I needed to treat who was not in their room. I asked Kevin, the Certified Nursing Assistant where the patient was, he said he did not know, he looked in the patient's room, and they were not there. The same nurse Kedzie was in the hallway standing at her mobile desk, and began screaming in the hallway at me shouting "what is your problem? You see me in the hallway, and ignored me, you could have asked me where the patient was!" I told her I just asked Kevin, because I saw him in the hall. As she continued screaming at me down the hall, I walked away from her, and went into another patient's room to treat them, then she comes in that patients room, and asked for gloves so I said here's some gloves, and handed her the box, and continued to treat her kindly after she screamed at me minutes ago that day. I reported that incident to Morgan Decker, one of my managers who talked to Kedzie the nurse, and her nursing manager about the incident. Then Kedzie comes in the doorway of one of my patient's rooms while I was with the patient, and their family member. Kedzie says, "Jennifer I need to talk to you" I then tell her "I am sorry I can't I am with a patient now". I never talked to her, and told Morgan Decker one of my managers what she did then, and how I was uncomfortable around her, and she told me you know we all have to get along for the patient's sake, and you have to talk to her, and get along with her as

she works here, and you work here then I said "yes that's true but she should talk to me properly without screaming at me."

Then April 26, 2019 I come to work, and find out I am scheduled for a 9 hour work day without any prior notice from either of my managers Morgan Decker or Abigail McKenzie when I am required to only work 8 hours a day as a full time employee. I asked Morgan about why I have 9 hours of work, and Morgan said, "well we had a meeting in the past, oh maybe you were not there". I was on a work injury leave Feb 14th 2019 - April 1st 2019. Morgan said that she told everyone if they missed hours during the week like I did due to patient's refusing or going to the hospital like in my case we all have to make it up on Friday at the end of the week to make our 40 hours for the week so you have to do it. Then she said, "I could have given you 10 hours if you were even more short, but I thought about texting you last night, but I did not think it was appropriate to text you 11 pm on a Thursday night. Then she said I can make your day 8 hours, but next time you have to make up any hours lost on Fridays from now on". I told her it's okay with me, but I don't know if the patients are willing to work with me that late at night for physical therapy, and she said to me well it's up to you, so I agreed to work 9 hours that day, and did. If I had known that I was going to work a 9 hour day I would have to come into work with the patients earlier that day I told Morgan. Morgan knew I was not at that meeting while I was on a work injury.

Then on Friday May 3, 2019 I was working with a patient, and I noticed Drita the Regional Manager from Encore was there, and I told her that I was sorry I did not meet her in the gym from an old text I saw later, and she said it was ok and she said "I told all of your co-workers you all are doing a great job, and gave out gift cards to some of your co-workers, and you received one too", which I did, and thanked her for. Then she asked me "are you with a patient now?" I said "yes they are resting." She asked "what time are you done with that patient", and I said "5:30 pm", then she said "at 5:30 pm please meet me here in the gym right away", and I said "okay". Then I met

with Drita, and Morgan one of my managers, and Drita said "you had a complaint from a patient you know what I am talking about right?" I said "no I don't." Drita said "you know that patient you saw recently" (April 26, 2019 was the date I realized myself) "late at night complained to the Administrator of Wellbridge of Novi LeAnn that you came into her room late at night around 7:30 pm or after 8:00 pm, and asked her to do physical therapy, and she was tired, and told you to leave, but you didn't." Then I said, "I was asked to switch that day with another co-worker who said that the patient was out at a Doctor appointment, and Morgan one of my managers wanted me to switch a patient with this co-worker Diana, and see that patient late, and the manager Morgan knows that I work late, and I told the patient since they had a Doctor's appointment we need their report update from the Orthopedic Doctor so we will know how to treat her properly, but the patient told me to do it tomorrow, but I told her that the nurses needed to know that night how to treat her, but the patient was still mad." Drita said, "because of this patient complaint, your name has come up several times to the Administrator LeAnn from nurses because of your attitude, and negative interactions between you and the nurses, the patients, patient complaints, and patient family member complaints about you. The Administrator LeAnn does not want you to work here at Wellbridge of Novi any longer, and feels you are not a good fit for this building with their high expectations." Then Kedzie the nurse who hit me, and screamed at me walked by the room. I said, "well that nurse hit me, and was screaming at me, and I never even treated her wrong". Drita says, "well Wellbridge of Novi does not believe you are telling the truth on that incident". Then I said, "I told the truth". I specifically asked Drita what specific things did the Administrator tell you that I did wrong, what were the specific incidents that showed negative interactions with me, and the nurses, or patients, and patient family members, and what attitude did they say I have, but Drita did not tell me any examples. This is racial discrimination.

I said, "I have two patients left to treat on my schedule for the day". Morgan one of the managers, and Drita said "its okay you won't be able to treat them, you can just make sure your documentation, and billing is all caught up." I

checked all of my documentation, and billing which was all completed. Morgan one of the managers printed my labor log, and gave it to me, and I signed it, and gave it to her. Drita then said, "Jennifer you are still an employee of Encore you just can't continue working at Wellbridge of Novi anymore". I said, "okay, but will I get unemployment if there is no facility for me to work at?" Drita said, "I will talk with human resources about it, and let you know, but unfortunately our only jobs available are up north in Michigan far away or Lansing Michigan", which I told her was too far from me. She said "we will be in touch." Drita, and Morgan gave me a hug goodbye. I got all my personal belongings, took my name down off my tiny cabinet space, got my lunch, and left the building. I asked Morgan by texting her what should I do with my two Wellbridge of Novi polo shirts "uniform", and Wellbridge of Novi nametag, and she said to me "Oh don't worry about it" in a text message to me from her.

On May 7, 2019 Drita calls me, and tells me she is sorry she did not get back with me any sooner, and says there are no jobs in the Novi area, but asked me if I was I willing to go to another location as a PRN like Grand Blanc? I said, "no that's too far away." Then she texted me two positions may be available this week, and the scheduler will contact me. Over the phone Drita said "you can file for unemployment, but if you decide to, Encore will automatically terminate your position, because Encore will not pay for the unemployment." I asked about my insurance benefits, and Drita said, "now that you are PRN, and there are no full time positions or part time positions in your area, and you cannot work at Wellbridge of Novi or any other Wellbridge locations, because of the decision made by Wellbridge of Novi to terminate my position there we are limited in what jobs we can give you like we can give you jobs at the Medilodge's, but there is nothing available now so your insurance benefits will be cut on June 1st, 2019". You would think she would have told me this immediately.

On May 9, 2019, Shay a Staffing Scheduler with Encore calls me, and says, "Drita said you need PRN jobs, since you are PRN". She tells me there are

jobs available, that need PRN's in Mayville, near Saginaw, and Jackson which are all in Michigan. All of the mentioned locations are at least an hour or more away from my home. She did^(not) even know where I lived, until I told her. She mentioned there are no jobs in the Detroit area now, and she would contact me when they are available. She said, "I have only been working with Encore since January 2019, and I am new to this company." Because of this, she was not able to answer a lot of my questions.

On May 10, 2019, I filed online for Unemployment due to the loss of hours, and a loss of full time work with Encore. I completed my second fingerprinting from Encore as asked by, Drita's secretary, Cathy Drapeau who wanted me, and other co-workers from Wellbridge of Novi to complete.

On May 22, 2019 I saw online at Encore's website www.encorerehabilitation.com under careers, and job openings for the Detroit, Michigan area that Encore posted 2 jobs, 1 PRN in Taylor, Michigan, and 1 job part-time in Westland, Michigan for a Physical Therapist Assistant that they did not tell me about. They have only told me about PRN jobs in Detroit, Michigan.

The entire time I have worked for Encore these past 6+ years I was never offered a raise in pay so I asked for a raise twice, and each time I asked for a raise Encore did not give me a raise. They told me the first time I asked for a raise that they could not give out raises, because of a "pay freeze". The second time I asked for a raise Kathy Seeber told me they could not give out raises, because of "recent Medicare cuts". I firmly believe, because of these actions that White employees, and White men with less seniority, and less experience than me were paid more than me.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

JENNIFER SCHLUTER

(b) County of Residence of First Listed Plaintiff OAKLAND
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

ENCORE REHABILITATION SERVICES, LLC

County of Residence of First Listed Defendant OAKLAND
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			



V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

U.S. CODE 1345 - SUIT CODE #710

Brief description of cause:

UNEQUAL PAY

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

4/13/2022

SIGNATURE OF ATTORNEY OF RECORD

Jennifer Schluter

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

1. Is this a case that has been previously dismissed? ☒ Yes
☐ No

If yes, give the following information:

Court: US District Court, Eastern District of MI, Southern Di

Case No.: Civil Action No. 10-cv-13092

Judge: Honorable Bernard A. Friedman, Magistrate David R

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.) ☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

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